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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,021	12/15/2003	Nathaniel Lee		4163

7590 10/18/2005
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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT PAPER NUMBER

3618

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,021

Applicant(s)

LEE, NATHANIEL

Examiner

Cynthia F. Collado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period, for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Applicant's election of species I-2, figures 1-6 in the reply filed on July 11th, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,5,12-15 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US Patent No.5, 842,595).

Williams teaches a bottom section having a top, a bottom, a left side, a front side and a back defining opening in the top (see figure1, element 2) also see column 2, lines 26-29), a top section having a top, a bottom, a left side, a right side, a front, a back and opening in the bottom (see figure 1, elements 3 and 4) also see column 2, lines 29-29), a connection means for releasable connecting the bottom of the top section to the top of the bottom section (see figure 2, elements 3) also see column 2, lines 26-29), a mounting means attached to the bottom section and for holding an axle and at least one wheel rotationally mounted to allow vertical or horizontal positioning of the back of the bottom section (see figure 3, elements 6 and 8) also see column 2, lines 29-34).

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Regarding claim 2, Williams teaches a handle having a length means adjustable to have the length parallel to the ground dependent on the positioning of the back with the bottom, section (see figure 1, element 5).

Regarding claim 5, Williams teaches the connecting means comprising an insertion means for inserting the top container into the bottom container and frictionally contacting the left side, right side, front and back of the top section to the left side, right side front and back of the bottom section (see figure 1, elements 2,3 and 4)

Regarding claim 12, Williams discloses a removable front cover at the top of the bottom section (see figure 2, element 5),

Regarding claims 13 and 14, Williams discloses one axle tube having a first and second position (see comments below) along the back of the bottom section (see figures 2, first position near element 7 and second position near 6) releasably hold the axle, the first position and second position releasably hold the axle (see figures 2, elements 6 and 8),

Regarding claim 13, note that Webster's collegiate Dictionary, 10th Edition defines "position" as " an arrangement or placement of one or more persons or things".

Regarding claim 15, Williams teaches the axle tube is a slot defined in the back of the bottom section (see figure 2, element 8),

Regarding claim 17, Williams teaches the top section top has a perimeter with a removable cover covering the perimeter (see column 2, lines 25-34),

Regarding claim 18, Williams teaches a bag holding means for holding a bag over the perimeter of the top of the top section (see column 3, lines 6-9),

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Regarding claim 19, Williams teaches a bag holding means comprising a grip extending outward from the top perimeter of the top section (see column 4, lines 25-35),

Regarding Claim 20, Williams teaches the top section is held in place one removable holding means (see column 4, lines 50-60).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 3,4, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US Patent No.5, 842,595) in view of J.C Hallisey US Patent No. (2, 667,397).

Regarding claim 4, Williams discloses the claimed invention except for attaching the top container to the bottom container forming an intersection and the intersection

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defines an angle less than 90 degrees between the back of the bottom section and the front of the bottom section. It would of have been obvious to one having ordinary skill in the art at the time the invention was made to include the intersection defining an angle less than 90 degrees between the back of the bottom section and the front of the bottom section, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 4, Williams does not teach the angled sections, however J.C Hallisey discloses the angle described sections by the left and right side of the bottom section and the left and right side of the top section (see figure 2, element 3), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container of Williams to include an angle described by the left and right side of the bottom section and the left and right side of the top container therefore making it easier to carry, and to permit easier lifting of cover.

Regarding claim 6, Williams does not teach the left side and the right side have a length in where the angle extends less than the entire length of the left and right sides, however J.C Hallisey discloses the left and right sides having a length in where the angle extends less then the entire length of the left and right sides (see figure 1, elements 2),

Regarding claim 7, Williams discloses the claimed invention except for the extending angled container. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include the angle extending from one end to a point no closer than 6 inches from the back of the bottom section, since it has

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been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 8, Williams discloses the claimed invention except for the left side has a left wall and the right side has a right wall between the angle and the top of the bottom section and where the left and right wall are at least 6 inches from the back of the bottom section at the point. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include the left side has a left wall and the right side has a right wall between the angle and the top of the bottom section and where the left and right wall are at least 6 inches from the back of the bottom section at the point, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 9, Williams discloses the claimed invention except for the angle is between the back of the bottom section and front of the bottom section and is less than 90 degrees. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include an angle between the back of the bottom section and front of the bottom section and is less than 90 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 10, Williams discloses the claimed invention except for the angle is less than 75 degrees. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include an angle less than 75 degrees,

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since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 11, Williams discloses the angle between 45 and 80 degrees. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include an angle between 45 and 80 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Allowable Subject Matter

6. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 5,071,147 issued to Stansbury teaches a device for protectively storing and transporting golf equipment.

US Patent No. D 311,622 issued to Swig teaches a tool caddy.

US Patent No. 6,053,354 issued to Niemeyer teaches a container with a hinged lid assembly.

US Patent No. 5,899,468 issued to Apps et al teaches a roll out cart.

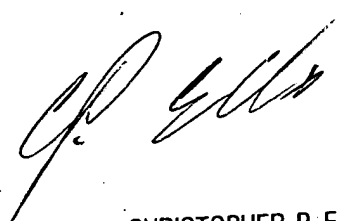
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CFC 9/7/05



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